

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 3/22/12

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THE FRIDATOR TRUST, :

Plaintiff, :

-against- :

NEUBERGER BERMAN LLC, :

Defendant. :

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10 Civ. 5917 (ALC) (AJP)

ORDER OF DISMISSAL ON CONSENT

ANDREW J. PECK, United States Magistrate Judge:

The parties having informed the Court that they have reached a settlement agreement in principle and are finalizing settlement documents (see attached letter), IT IS HEREBY ORDERED THAT this action is dismissed with prejudice and without costs, provided, however, that any party may reinstate the action within 30 days hereof if the settlement is not fully effectuated. Any pending motions are to be terminated as moot.

SO ORDERED.

DATED: New York, New York
March 22, 2012



Andrew J. Peck
United States Magistrate Judge

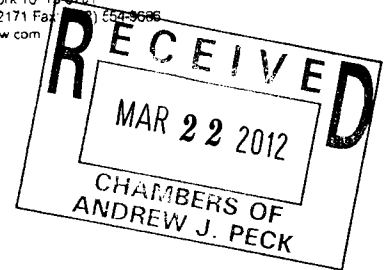
Copies by ECF to: All Counsel
Judge Andrew L. Carter, Jr.



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March 22, 2012



VIA FACSIMILE

The Honorable Andrew J. Peck
United States Magistrate Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

**Re: The Fridator Trust v. Neuberger Berman LLC, et al.
(S.D.N.Y. Civil Action No. 10-cv-5917 (ALC) (AJP))**

Dear Judge Peck:

We represent plaintiff The Fridator Trust ("Fridator") and write on behalf of Fridator and the defendants Neuberger Berman LLC ("Neuberger") and HSBC Securities (USA) Inc. ("HSBC") to inform the Court that the parties have reached a joint settlement for both the above-referenced action and the adversary proceeding in the United States Bankruptcy Court for the Southern District of New York, *In re Lehman Bros. Holdings, Inc., et al. (Neuberger Berman LLC v. Brown Bros. Harriman & Co.)*, No. 10-3610 (JMP) (Bankr. S.D.N.Y.) (the "Adversary Proceeding"). The parties in both actions are in the process of drafting settlement documents.

The parties consent to a conditional dismissal without prejudice while the parties finalize and execute the settlement documents and obtain any necessary judicial approval of the settlement in the Adversary Proceeding. When that process has been completed, the parties will submit to this Court to be "so ordered" a stipulation and proposed order of dismissal with prejudice.

The parties request that the Court provide thirty days from the date of entry of an order of conditional dismissal without prejudice for any party to this action to request that the case be reopened or that the conditional dismissal period be extended. The parties understand that in the absence of such a request, after the thirty-day period, the case will be finally dismissed with prejudice.

Respectfully submitted,

Paul A. Saso
Director

GIBBONS P.C.

The Honorable Andrew J. Peck
March 22, 2012
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cc: Quinlan Murphy, Esq. (counsel for Neuberger)
Andrew Rhys Davies, Esq. (counsel for HSBC) (both via electronic mail)

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